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BEFORE THE ARIZONA CORPORATIC

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MAY 06 2015

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2015 MAY -6 P 2:37

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ORIGINAL

DOCKET NO. WS-20878A-13-0065

SOUTHWEST ENVIRONMENTAL  
UTILITIES' OBJECTIONS TO STAFF  
REPORT

IN THE MATTER OF THE APPLICATION  
OF SOUTHWEST ENVIRONMENTAL  
UTILITIES, L.L.C., FOR A CERTIFICATE  
OF CONVENIENCE AND NECESSITY TO  
PROVIDE WATER AND WASTEWATER  
SERVICE IN PINAL COUNTY, ARIZONA.

On April 28, 2015, Utilities Division Staff ("Staff") filed its staff report in this docket. On May 4, 2015, Staff filed a Notice of Errata which included an amended staff report (hereinafter, the "Staff Report"). Pursuant to the Procedural Order dated April 7, 2015, Southwest Environmental Utilities, L.L.C. ("SEU" or the "Company") hereby files its objections to the Staff Report.<sup>1</sup>

1. SEU Objects to Staff's Recommended Water System Fair Value Rate Base.

For the proposed water utility, SEU has an estimated rate base at the end of the first five years of operation of \$1,456,494. However, Staff increases rate base by \$1,629,762 to \$3,086,256. Staff's higher rate base is primarily the result of Staff's elimination of the water hook-up fees ("HUFs") that were proposed by the Company. For the reasons discussed in Section 4 below, SEU urges the Commission to approve the requested water HUFs and the Company's proposed fair value rate base. SEU does not oppose Staff's recommended rate of return of 10%.

<sup>1</sup> Pursuant to an agreement with Staff, which was approved by the administrative law judge, SUE is submitting its objections to the Staff Report on May 6, 2015.

2. SEU Objects to Staff's Recommended Wastewater System Fair Value Rate Base.

For the proposed wastewater utility, SEU has an estimated rate base at the end of the first five years of operation of \$2,448,586. However, Staff increases rate base by \$1,012,522 to \$3,461,108. Staff's higher rate base is primarily the result of Staff's elimination of the wastewater HUFs that were proposed by the Company. For the reasons discussed in Section 4 below, SEU urges the Commission to approve the requested wastewater HUFs and the Company's proposed fair value rate base. SEU does not oppose Staff's recommended rate of return of 10%.

3. SEU Objects to Staff's \$10,000 per month Expense for Vaulting and Hauling and/or Flushing Sewer Lines.

Staff adds an expense of \$10,000 per month for vaulting and hauling and/or flushing sewer lines. However, SEU has previously advised Staff in a response to a data request that any and all expenses of vaulting and hauling and/or flushing sewer lines during the early years of operation will be borne solely by the developers pursuant to their respective collection main extension agreements. Other utilities in Arizona have required developers to pay for the costs of vaulting and hauling and/or flushing. As one example, EPCOR Water Arizona (formerly Arizona-American Water Company) required the developer of Corte Bella to pay for the flushing of sewer lines in the early phase of the development. In that case, an automatic flushing system was installed at the developer's expense to periodically flush the sewer lines until such time as the flows were sufficient for the system to operate without flushing. Likewise, there is no valid reason to require customers of SEU to pay these typical costs of initiating sewer service to a new development.

George Johnson, the owner of SEU, has years of experience operating wastewater systems, including working with many developers who have constructed and connected new sewer collection infrastructure to Johnson Utilities' sewer collection and treatment system. As a result, Mr. Johnson is very familiar with the process of commencing new

1 sewer service to a new development or subdivision. Although SEU is not aware of (and  
2 Staff has not cited) any rule or statute that states whether or how often sewer lines should  
3 be flushed in order for a new sewer system to function normally while initial sewer flows  
4 are low, the Company is legally obligated to operate the sewer system in a way which  
5 does not cause any septic condition. Mr. Johnson has explained in a response to Staff's  
6 data requests that he will employee certified wastewater operators at SEU to make  
7 certain that the sewer system operates in accordance with applicable state and federal  
8 laws at all times. This includes requiring vaulting and hauling and/or flushing of sewer  
9 lines during the early construction phases of new subdivisions, as deemed necessary by  
10 SEU.

11 The frequency of vaulting and hauling and/or flushing of sewer lines depends  
12 upon a variety of factors which cannot be predicted at this time with any degree of  
13 accuracy, as evidenced by the lack of any supporting analysis supporting Staff's  
14 recommended \$10,000 monthly expense. Thus, the frequency of vaulting and hauling  
15 and/or flushing of sewer lines will be determined by SEU once the new collection system  
16 is operating. However, with regard to the costs of vaulting and hauling and/or flushing  
17 sewer lines, SEU will include a requirement in its collection main extension agreements  
18 that obligates the developer of each subdivision to pay any and all costs of vaulting and  
19 hauling and/or flushing sewer lines as deemed necessary, in the discretion of SEU, until  
20 such time as sewer flows reach a level where vaulting and hauling and/or flushing is no  
21 longer required in order for the sewer system to function normally. As a result, there will  
22 be not cost borne by SEU and the inclusion of Staff's recommended \$10,000 expense is  
23 unwarranted and unreasonable.

24 4. SEU Objects to Staff's Elimination of Hook-Up Fees.

25 SEU has proposed water and wastewater HUFs but Staff has recommended  
26 eliminating the HUFs on the grounds that Staff does not recommend HUFs for new  
27 Certificates of Convenience and Necessity ("CC&Ns"). Johnson Utilities has had  
28 approved water and wastewater HUFs since the company began operating. Mr. Johnson

1 believes that HUFs are important for new and established utilities because they help keep  
2 utility rates lower. In addition, HUFs help mitigate the risk of building backbone plant  
3 for new developments as they appropriately place a greater share of the financial  
4 responsibility of constructing new plant on developers instead of the utility and its rate  
5 payers. So long as HUFs do not represent a disproportionate share of the cost of  
6 constructing backbone plant, they provide benefits to the utility and its ratepayers. SEU  
7 requests that the Commission approve the requested water and wastewater HUFs.

8       5.     SEU Objects to the Higher Rates in Staff's Rate Design.

9       Because Staff has eliminated the requested HUFs, the water and wastewater rates  
10 have increased accordingly. SEU objects to the higher rates proposed by Staff which  
11 result from elimination of the HUFs.

12       6.     SEU Objects to Staff's Recommended Effluent Rate.

13       SEU proposed an effluent rate of \$1.00 per thousand gallons. However, without  
14 any explanation or analysis, Staff has recommended an effluent rate of only \$0.63 per  
15 thousand gallons. For many years, Liberty Utilities (Litchfield Park Water & Sewer)  
16 Corp. ("Liberty") has been authorized to sell effluent based upon the market for effluent.  
17 The current tariff sets a maximum effluent rate of \$430 and Liberty may reduce the  
18 effluent rate as necessary to dispose of its effluent. While allowing Liberty to tailor  
19 effluent sales to meet customer demand, the Commission also directed that "LPSCO  
20 should make every reasonable effort to maximize the revenues received from effluent  
21 sales in order to ensure that all customers receive a benefit from those sales."<sup>2</sup>

22       One way to resolve the difference between the effluent rate proposed by SEU and  
23 the rate recommended by Staff would be to follow the Liberty model and set a maximum  
24 effluent rate of \$1.00 per thousand (\$326 per acre-foot) and allow the Company to  
25 reduce the rate as necessary to dispose of the effluent. Alternatively, SEU requests that  
26 the Commission approve the requested effluent rate of \$1.00 per thousand.

27  
28       <sup>2</sup> Decision 72026 (Docket SW-01428A-09-0103 *et al.*) at 63, lines 20-22.

1           7.     SEU Objects to Staff's Recommendation of a 10% per Annum Refund of  
2                 Advances in Aid of Construction for Water Infrastructure.

3           In the notes to Schedule MJR-WIIS to Mary Rimback's April 21, 2015  
4 Memorandum attached as Attachment C to the Staff Report, Staff states that it "increased  
5 the amount refunded to developers from 5% to 10%, which decreased rate base starting  
6 in year 2."<sup>3</sup> Since its inception, Johnson Utilities has refunded advances in aid of  
7 construction for both water and wastewater infrastructure at a rate of 5% per annum until  
8 the advance has been fully refunded. This policy allows the utility to build additional  
9 rate base and developers are happy to receive the return of their full advance. SEU plans  
10 to refund water and wastewater advances at the rate of 5% per annum until fully  
11 refunded. Thus, the Company requests that the Commission reject Staff's recommended  
12 reduction to rate base pertaining to the 10% refund amount.

13           Because there is no note regarding refunds of advances in Schedule MJR-WW-  
14 IIS, SEU is operating under the belief that Staff agrees to a 5% refund of advances for  
15 wastewater infrastructure.

16           8.     SEU Objects to Staff's Proposed Late Payment Charge of 150% Per Month  
17                 for the Water Division.

18           In Schedule MJR-W4 (page 2 of 2) of Mary Rimback's April 21, 2015  
19 Memorandum attached as Attachment C to the Staff Report, Staff proposes a late  
20 payment charge for the water division of 150% per month instead of the 1.50% proposed  
21 by SEU. The Company assumes that this recommendation is a typo, and that Staff  
22 actually intends a late charge of 1.50% per month for the water division.

23           9.     Clarification Regarding After Hours Service Charge.

24           At pages 5-6 of Mary Rimback's April 21, 2015 Memorandum attached as  
25 Attachment C to the Staff Report, Staff agrees with SEU that an after hour service charge  
26

27 <sup>3</sup> While the notes to Schedule MJR-WIIS state that Staff has increased the amount refunded to  
28 developers from 5% to 10% for water infrastructure, Schedule MJR-W1 Refunds uses a rate of 5% to  
calculate the refunds. Thus, it is not clear to SEU whether Staff is proposing a 10% refund or a 5%  
refund. SEU is seeking to refund advances in aid of construction at the 5% rate.

1 is appropriate when a customer requests establishment of service after normal business  
2 hours. Staff correctly notes that “[s]uch a charge compensates the utility for additional  
3 expenses incurred when providing after hour service.” With regard to water service, in  
4 Schedule MJR-W4 (page 2 of 2) Staff eliminates the “Establishment of Service (After  
5 Hours)” charge in the amount of \$50.00 and retains the “After Hours Service Charge” in  
6 the amount of \$50.00. Likewise, with regard to wastewater service, in Schedule MJR-  
7 WW4 Staff eliminates the “Establishment of Service (After Hours) if sewer only” charge  
8 in the amount of \$50.00 and retains the “After Hours Service Charge (If wastewater  
9 customer only, at customer’s request)” in the amount of \$50.00. However, in Ms.  
10 Rimback’s Memorandum, she states that “Staff recommends the addition of a Service  
11 Charge (after hours) tariff in the amount of \$50.00 and that this charge be in addition to  
12 the charge for any utility service provided after hours at the customer’s request.”

13 SEU believes there may be some ambiguity in Staff’s recommendation and seeks  
14 clarification. As SEU reads Staff’s recommendation and Schedule MJR-W4 (page 2 of  
15 2), if a water and wastewater customer requests establishment of service after hours, then  
16 SEU can charge the customer a \$25 Establishment of Service charge and a \$50.00 After  
17 Hours Service Charge, for a total charge of \$75.00. Likewise, if a wastewater-only  
18 customer requests establishment of service after hours, then SEU can charge the  
19 customer a \$25 Establishment of Service charge and the \$50.00 After Hours Service  
20 Charge, for a total charge of \$75.00.

21 Similarly, the \$50.00 After Hours Service Charge would apply to any activity by  
22 SEU which is requested after hours by the customer including re-establishment of  
23 service, reconnection of service, meter tests, meter re-reads, etc.

24 10. Clarification Regarding Designation of Assured Water Supply/CAGRD  
25 Adjuster.

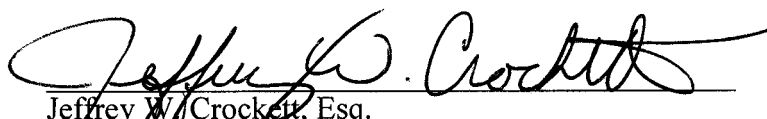
26 Recommendation 16 at page 7 of the Staff Report requires that SEU file with  
27 Docket Control a copy of the Certificates of Assured Water Supply (“CAWS”) issued by  
28 the Arizona Department of Water Resources for the areas included within the CC&N

1 within two years of the effective date of the order approving the CC&N. SEU is still  
2 evaluating whether or not it will seek a Designation of Assured Water Supply ("DAWS")  
3 for the area included in its CC&N. A DAWS would eliminate the need for individual  
4 developers to obtain a CAWS for their respective developments. SEU requests that  
5 Recommendation 16 be expanded to include a DAWS as an option for the Company in  
6 addition to the filing of CAWS for the various developments.

7 Additionally, in the event that SEU obtains a DAWS, the Company requests  
8 specific authority in the order granting the CC&N to seek approval of a Central Arizona  
9 Groundwater Replenishment District ("CAGR") adjuster mechanism similar to the one  
10 that is currently used by Johnson Utilities. The Commission has previously determined  
11 that a CAGR adjuster is an appropriate mechanism to pass through to customers the  
12 taxes associated with membership in the CAGR.

13 RESPECTFULLY submitted this 6<sup>th</sup> day of May, 2015.

14 BROWNSTEIN HYATT FARBER SCHRECK LLP

15 

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19 ORIGINAL and thirteen (13) copies  
20 filed this 6<sup>th</sup> day of May, 2015, with:

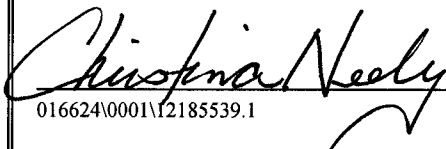
21 Docket Control  
22 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
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23 COPY of the foregoing hand-delivered  
24 this 6<sup>th</sup> day of May, 2015, to:

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